

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED** CRL  
9/22/2021  
THOM S.G. BRUTON  
CLERK, U.S. DISTRICT COURT

OAKLEY, INC.,

Plaintiff,

Case No. 21-cv-03836

v.

THE PARTNERSHIPS and  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A",  
Defendants.

## Motion To Reconsider Preliminary Injunction Order

Defendant Respectfully requests The Court reconsider The Preliminary Injunction Order[DKT.43], Specific reasons are as follows:

1. Rule 60(b) of the Federal Rules of civil procedure provides "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:...(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;...".

In the present case, Plaintiff made misrepresentation in the hearing hold on August 26 that "...defendant did not reach out to them nor have they had any correspondence from defendant." [DKT.42]. In fact, Defendant had been reaching out to plaintiff, but plaintiff never replied to Defendant, Defendant at least used Email Account [boyandgirlfriend@aliyun.com](mailto:boyandgirlfriend@aliyun.com) which is associated with the Amazon store to reach out to plaintiff's Counsel on August 16 (See **Exhibit 1**). Defendant couldn't speak English and couldn't catch up with English listening, Defendant could only communicate through Email or Documents.

On the one hand, Plaintiff served legal documents to the defendant's email [boyandgirlfriend@aliyun.com](mailto:boyandgirlfriend@aliyun.com) and claimed that service was effective, on the other hand, Plaintiff did not recognize or reply to the defendant's message from [boyandgirlfriend@aliyun.com](mailto:boyandgirlfriend@aliyun.com), Plaintiff's representation in the hearing violated the principle of Estoppel. The plaintiff shouldn't deny that it received correspondence from me.

2. In the Design Patent case, Defendant has disclosed in its Response[DKT.38] that Defendant sold only 11 accused products and obtained \$98.78 (including purchased cost, profit and freight). The frozen amount is more than \$29000, and the store has a large variety of goods irrelevant to this case to waiting to be sold. Defendant believes that Plaintiff has also obtained the same data provided by Amazon under the Temporary Injunction Order, however, the defendant still improperly continued to leverage the Injunction to stop the defendant's entire business



unrelated to accused products. So far, the loss of profits due to whole suspension of store operation has far exceeded the compensation that may be paid to the plaintiff.

3. So far, Defendant has been reaching out to defendant but Plaintiff still never responded. Defendant's loss has been increasing. Defendant has no sufficient relief except to submit this motion. Defendant is willing to directly pay a certain amount as deposit in good faith and hopes Plaintiff can contact the platform to release its store from Injunction.

**Therefore,** Defendant respectfully requests The Court reconsider and modify Preliminary Injunction Order.

**Dated:** September 22,2021

**Respectfully Submitted**

/s/ 刘晓旭 (Liu Xiaoxu)

**Email:** xuandgirl@163.com

**Address:** 101, office building 8, Longxing Industrial Park,  
Guanlan street, Longhua District, Shenzhen

**Phone Number:**133-1235-3840

**Pro Se Litigant**

Defendant No	Store Name	Amazon ID	Operator
30	boyandgirlfriend	A3PIML6QMGKA12	刘晓旭 (Liu Xiaoxu)

**Exhibit 1**

## 21cv3836-Oakley Inc V. individual defendant (boyandgirlfriend)

boyandgirlfriend@aliyun.com



Adam 2021-08-30 22:54  
 发至 Jake :抄送 Martin . jgaudio@gbclaw . 我



详情

Counsel,

According to the court's record, we note you falsely stated that defendants did not reach out to you nor have they had any correspondence. In fact, we have been actively contacting you but you never wanted to negotiate with us.

The defendant just wants to solve the case as soon as possible because the store is important to him. Sincerely speaking, you could present a offer to settle with us here, or you could also directly reach out to the client to settle. We look forward to receiving your kind reply.

Best regards,

Adam

At 2021-08-16 14:47:12, "boyandgirlfriend" <boyandgirlfriend@aliyun.com> wrote:

Martin and Justin,

The store is important to us. We hope you can reply to us with an amicable offer so that both parties can settle the matter ASAP. The store's frozen amount has nothing to do with accused products. The store's loss in profit has been increasing due to suspension of business. If you keep silence, we will take appropriate action against you.

Store name	Seller ID	Marketplace
boyandgirlfriend	A3PIML6QMGKA12	Amazon

Best Regards,



**boyandgirlfriend**

boyandgirlfriend@aliyun.com